

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1459-VIXS029

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Application Number

10/081,084

Filed

February 22, 2002

First Named Inventor

Indra Laksono

Art Unit

2424

Examiner

Justin E. Shepard

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

/Ryan S. Davidson/

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

Signature

Ryan S. Davidson

Typed or printed name

☒ attorney or agent of record.
Registration number 51,596

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Telephone number

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

January 27, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Indra LAKSONO, et al.

Title: SYSTEM AND METHOD TO PROVIDE VIDEO TO A PLURALITY OF WIRELESS DISPLAY DEVICES

App. No.: 10/081,084

Filed:

February 22, 2002

Examiner: Justin E. SHEPARD

Group Art Unit:

2623

Customer No.: 29331

Confirmation No.:

2352

Atty. Dkt. No.: 1459.0100290 (1459-VIXS029)

Mail Stop AF

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

REMARKS IN SUPPORT OF
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action mailed October 28, 2008 (hereinafter “the Final Action”), and pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, the Applicants request review of the following issues on appeal. In order to facilitate full consideration of the remarks filed herewith, the Applicants respectfully request that the Art Unit Supervisor designate a panel composed of at least three examiners.

The cited references fail to disclose determining at a display device a select channel of a plurality of channels of a multicast channel based on a data transmission rate between the display device and a wireless access point as recited by claim 31

Claim 31 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheriton (U.S. Patent No. 6,831,917) in view of Chou (U.S. Patent No. 6,532,562) in view of Schober (U.S. Pat. App. No. 2001/0044835). Claim 31 recites the features of “determining at a display device a data transmission rate between the display device and a wireless access point” and “determining *at the display device* a select channel of a plurality of channels of a multicast channel based on the data transmission rate” As discussed at pages 1 and 2 of the Remarks in Support of the Pre-Appeal Brief Request for Review mailed January 18, 2007 and at pages 4 and 5 of the Remarks in Support of the Pre-Appeal Brief Request for Review mailed January 28, 2008, Cheriton teaches that each subscriber 550 joins the same “single source multicast group (S, G)” and it is the NAT compatible switch 300 (which is separate from the subscribers 550) that remaps different multicast streams to

different subscriber groups via virtual network address translation mapping such that “subscribers 550 to such a single-source, virtual host multicast would likely be unable to detect a source transition because *all of the traffic will appear to the subscribers [550] as originating from a single virtual host (S, G)*”. See, e.g., *Cheriton*, col. 3, lines 22-41, col. 3, line 65 – col. 4, line 53, and col. 5, lines 19-21 (emphasis added). Further, *Cheriton* teaches that the subscriber 550 subscribes to the same multicast address, and it is the NAT compatible switch 300 that determines which of the low-resolution channel or the high resolution channel is to be transmitted to the subscriber 550. Therefore, it is the NAT compatible switch 300, rather than the subscriber 550/display device, that determines the select channel of a plurality of channels, and not the **display device** as recited by claim 31. Accordingly, *Cheriton* fails to disclose or render obvious at least the features of “determining **at the display device** a first channel of a plurality of channels” as recited by claim 31. The Office acknowledges this deficiency of *Cheriton* and thus turns to Chou as teaching “determining at a display device a first data transmission rate . . . , wherein subscribing at the display device to a first channel of a plurality of channels of a multimedia channel is based on the first data transmission.” *Final Action*, p. 5. The Office reasons that it would be obvious to “add the data transmission rate determining by Chou to the method disclosed by *Cheriton*” in that the “motivation would have been to enable *the receiver* to only be able to subscribe to channels that matched the receiver’s available bandwidth, therefore allowing the system to preserve bandwidth.” *Id.* (emphasis added). The Office errs in this assertion.

As discussed at page 6 of the Previous Response filed August 5, 2008, it is the NAT compatible switch 300, not the receivers, of the system of *Cheriton* that remaps different multicast streams to different subscriber groups via virtual network address translation mapping such that “subscribers 550 to such a single-source, virtual host multicast would likely be unable to detect a source transition because *all of the traffic will appear to the subscribers [550] as originating from a single virtual host (S, G)*”. See, e.g., *Cheriton*, col. 3, lines 22-41, col. 3, line 65 – col. 4, line 53, and col. 5, lines 19-21 (emphasis added). In contrast, Chou allegedly teaches that it is the receivers that select a particular multicast group based on data transmission rate. Contrary to the assertions of the Office, one cannot simply “add the data transmission rate determining by Chou to the method disclosed by *Cheriton*” as *Cheriton* and Chou teach conflicting and mutually-exclusive techniques. Rather, it will be appreciated that the technique of Chou would have to wholly replace the express technique described by *Cheriton*. However, *Cheriton* teaches that the benefit of the NAT-assigned mapping is that the subscriber is unlikely to detect a source transition, so one of ordinary skill in the

art, considering Cheriton in its entirety, would not only not find it obvious to implement the technique of Chou in the system of Cheriton, but would further recognize that doing so would be contrary to the express intent of Cheriton. Thus, it would not be obvious to combine the teachings of Cheriton and Chou as proposed by the Office.

The Office responds by asserting that, in effect, the Applicant is relying on the embodiment of Figure 5 of Cheriton, when, according to the Office, the embodiments of Figure 7 of Cheriton are the more relevant portions of Cheriton. *See Final Action*, p. 2. In particular, the Office asserts that “[a] later embodiment goes a step further and discloses that the router (figure 7, part 700) can be used to translate different resolutions to different multicast channels by selectively dropping portions from the high resolution source to create a lower resolution video (column 6, line 63 to column 7, line 8).” *See Final Action*, pp. 2-3.

The Office’s reliance on the embodiments of Figure 7 of Cheriton does not alter the deficiencies of Cheriton and Chou with respect to claim 31 for at least the reasons that Figure 7 merely illustrates a particular implementation of the broader concept of Cheriton described above. Figure 7 of Cheriton describes a “NAT-compatible switch or router” and does not contemplate the operation of a receiver. Further, as with Figure 5 of Cheriton discussed above, for Figure 7 Cheriton again contemplates that all traffic appears as coming from the same virtual host. *See Cheriton*, col. 6, lines 58-62 (“Again, since all subscribers in the multicast host group are sing data transmitted from the same virtual host (S,G) this ‘behind the scenes’ switching from source (S’,G’) to backup source (S’’,G’’) is transparent to the users.”). With respect to the “later embodiment” of Figure 7 alluded to by the Office, Cheriton merely discloses that the head end router can provide “different translations based on aspects of the packet data” and provides an example of translating low resolution component packets to one multicast channel supporting receivers with a “low bandwidth link” and translating high resolution component packets to another multicast channel supporting receivers with a “high bandwidth link.” *Id.*, col. 6, line 63 – col. 7, line 8. However, Cheriton fails to disclose for this “later embodiment” that it is the receiver that determines which of the two multicast channels the receiver is to subscribe. Rather, as with the remainder of the disclosure of Cheriton, it is up to the NAT-compatible switch/router to make this decision. Thus, as with the “embodiments of Figure 5, the “embodiments of Figure 7” likewise are incompatible for combination with the mutually-exclusive technique of Chou for the reasons described above. The Office fails to establish a *prima facie* case of obviousness for claim 31 in view of Cheriton and Chou.

The cited references fail to disclose determining, at a networked display device, a first multicast address from a plurality of multicast addresses based on a data transmission rate of the networked display device as recited by claim 58

Claim 58 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Deshpande (U.S. Patent No. 7,191,246) in view of Chou. Claim 58 recites the features of “determining, at the networked display device, a first multicast address from a plurality of multicast addresses based on the first data transmission rate, each of the plurality of multicast addresses associated with a corresponding version of a plurality of versions of a video stream.” The Office asserts that Deshpande teaches features of claim 58, with the exception of the claimed feature of determining a first multicast address from a plurality of multicast addresses based on the first data transmission rate, for which the Office turns to Chou. The Office reasons that it would be obvious to “add the data transmission rate determining by Chou to the method disclosed by [Deshpande]” in that the “motivation would have been to enable *the receiver* to only be able to subscribe to channels that matched the receiver’s available bandwidth, therefore allowing the system to preserve bandwidth.” *Final Action*, p. 9 (emphasis added). The Office errs in this assertion.

As discussed in the Remarks in Support of the Pre-Appeal Brief Request for Review mailed January 18, 2007, the disclosure of Deshpande fails to suggest to one of ordinary skill in the art that *receiver-subscribed* multicasting can be used in the clustering system of Deshpande. As described in a number of previous Responses, Deshpande discloses a technique whereby display receivers periodically report their local reception bandwidths, which are used by the server 86 to group the display receivers in clusters having similar local reception bandwidths, and the server 86 then provides to each cluster of display receivers a version of a video stream that is compatible with the local reception bandwidth of the cluster. Thus, the periodically readjusted clustering as taught by Deshpande is accomplished by changing the video stream transmitted to a display receiver *at the server 86* in response to a change in the cluster to which the display receiver is assigned, rather than having the display receivers play an active role in reassigning themselves to new video streams when clustering changes. Thus, it is the server 86 that assigns video streams to particular display receivers based on their bandwidth, rather than the display receivers selecting their own video streams based on their bandwidth. This approach is contrary to the technique of having the receiver subscribe to a particular multicast group based on data transmission rate as allegedly taught by Chou. As with Cheriton, the technique of Chou cannot be “added” to the system of Deshpande, but rather the technique of Chou would have to replace the server-based technique of Deshpande.

The Office again responds by asserting that the Applicant is considering the wrong “embodiment” and the allegedly applicable “embodiment” of Desphande teaches that the “receiver selects which layers to receive by observing it’s own packet loss (which occur when its own bandwidth is not high enough) to receive the current video quality level) and dropping layers when the packet loss gets to high” and cites the passage of Deshpande at col. 4, line 58 to col. 5, line 32 in support of this assertion. *Final Action*, p. 4. The Office further asserts that Desphande “even states that the server takes no active roll in allocating the bandwidth to the receivers, which goes against what the applicant is arguing,” but the Office fails to cite any passage of Desphande in support of this assertion. A review of the passage of Desphande cited by the Office does not reveal any support for the Office’s position that Desphande teaches that it is the receiver that “selects which layers to receive” or that the “server takes no active roll in allocating the bandwidth.” As such, the Office’s position finds no support in the disclosure of Desphande. It remains that Desphande and Chou would not be obvious to combine as proposed, and even if so combined, the combination of these references would not disclose or render obvious each and every feature of claim 58.

Conclusion

The Office fails to establish that the proposed combinations of the cited references disclose or render obvious each and every element recited by any of the pending claims. Accordingly, reconsideration and withdrawal of these rejections is respectfully requested.

Respectfully submitted,

/Ryan S. Davidson/

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January 27, 2009

Date